

IN THE MATTER OF	*	BEFORE THE
NEW ENGLAND COMPOUNDING CENTER	*	MARYLAND BOARD
PERMIT No: P03113	*	OF PHARMACY
Respondent-Pharmacy	*	CASE NO.: PI-13-057/13-457

* * * * *

ORDER FOR SUMMARY SUSPENSION

Pursuant to Md. State Govt. Code Ann. §10-226 (c) (2009 Repl.), the Maryland Board of Pharmacy (the "Board") hereby **SUMMARILY SUSPENDS** the permit to operate as a pharmacy in the State of Maryland issued to **NEW ENGLAND COMPOUNDING CENTER, Permit Number P03113**, (the "Respondent-Pharmacy") under the Maryland Pharmacy Act (the "Act"), Md. Health Occ. Code Ann. §§ 12-101 *et seq.* (2009 Repl. Vol.). This Order is based on the following investigative findings, which the Board has reason to believe are true:¹

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent-Pharmacy was authorized to operate a pharmacy in the State of Maryland. The Respondent-Pharmacy currently holds a permit to operate a pharmacy under permit number P03113. The Respondent-Pharmacy was first issued a permit on March 13, 2003, and its current permit will expire on December 31, 2013.

¹ The statements regarding the Respondent-Pharmacy are only intended to provide the Respondent-Pharmacy with notice of the basis for the Board's action. They are not intended as, and do not necessarily represent a completed description of the evidence, either documentary or testimonial, to be offered against the Respondent-Pharmacy in this matter.

2. The Respondent-Pharmacy is located at 697 Waverly Street, Framingham, Massachusetts 01702 and, until recently, was permitted to distribute prescription medications in all 50 states.

3. On or about October 3, 2012, the Respondent-Pharmacy voluntarily ceased operation after a fungal meningitis outbreak was traced to a steroid produced at the facility.

4. As of October 2012, at least thirty-five people in six states have become ill from the steroid and five people have died, including one person in Maryland.

5. The Respondent-Pharmacy voluntarily surrendered its Massachusetts Pharmacy permits.

6. On or about October 4, 2012, the North Carolina Board of Pharmacy issued an order summarily suspending the Respondent-Pharmacy's permit to practice pharmacy.

7. Based on the above-investigative findings, the Board has a basis to charge the Respondent-Pharmacy for violating the following:

Md. Health Occ. Code Ann. § 12-403

(f) A nonresident pharmacy shall:

(4) Maintain at all times a valid, unexpired permit to conduct a pharmacy in compliance with the laws of the state in which it is located[.]

Md. Health Occ. Code Ann. § 12-409

(b) Non-resident pharmacy. (1) A nonresident is subject to the disciplinary actions stated in this subsection.

(2) The Board may fine a nonresident pharmacy in accordance with § 12-410 of this subtitle or deny, revoke, or suspend the permit of a nonresident pharmacy for any violation of § 12-403 (d) through (g) of this subtitle.

CONCLUSIONS OF LAW

Based on the foregoing, the Board concludes as a matter of law that the public health, safety or welfare imperatively requires emergency action, pursuant to Md. St. Gov't. Code Ann. § 10-226(c)(2) (2009 Repl. Vol.).

ORDER

Based on the foregoing, it is therefore this 5th day of October 2012, by a majority vote of a quorum of the State Board of Pharmacy, by authority granted to the Board by Md. St. Gov't. Code Ann. §, 10-226(c)(2) (2009 Repl. Vol.), hereby:

ORDERED that the permit issued to the Respondent-Pharmacy to operate a pharmacy in the State of Maryland under Permit Number P03113 is hereby **SUMMARILY SUSPENDED**; and be it further

ORDERED that the Respondent-Pharmacy shall return its wall certificate and wallet-sized permit to the Board, within five days of the date this Order is signed by the Board; and be it further

ORDERED, that this document constitutes a final Order of the Board and is therefore a public document for purposes of public disclosure, as required by Md. State Gov't Code Ann. § 10-617(h) (2009 Repl. Vol. and 2011 Supp.).



LaVerne G. Naesea, Executive Director
Maryland Board of Pharmacy

NOTICE OF AN OPPORTUNITY FOR A HEARING

In accordance with the Act and the Administrative Procedures Act, Md. State Govt. Code Ann. §§ 10-201 *et seq.*, the Board hereby notifies the Respondent-Pharmacy of an opportunity for a non-evidentiary Show Cause hearing to show cause why the Board should lift the summary suspension. The Respondent-Pharmacy must request a hearing in writing **WITHIN THIRTY (30) DAYS** of service of this Notice. The written request must be made to:

LaVerne Naesea, Executive Director
Maryland Board of Pharmacy
4201 Patterson Avenue 21215
(410) 764-4755

with copies mailed to:

Tracee Orlove Fruman, Assistant Attorney General
Administrative Prosecutor
Office of the Attorney General
300 West Preston Street, Room 201
Baltimore, Maryland 21201

Linda Bethman, Assistant Attorney General
Board Counsel
Office of the Attorney General
300 West Preston Street, Room 302
Baltimore, Maryland 21201

If a request for a Show Cause hearing is made, a hearing will be scheduled before the Board.